MINUTES OF PACIFIC TOWN BOARD HEARING FOR ORDINANCE AMENDMENTS October 7, 2003 mq00:6 Pacific Town Hall

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Hearing called to order by Acting Chairman Devine at 6:15pm.

Attendance: Town Board members, Chairman William G. Devine & Supervisor James J. Rager were present. Also present was Attorney Richard Lehmann, hired by the Town Board. There were sixty-seven others who signed the attendance sheet and members of the Pacific Plan Commission.

Land Use Ordinance Amendments 2003-4 and 2003-5 were proposed. Note: This section will apply only to lands that have County Zoning for residential subdivision use, when that zoning allows lot sizes meeting the standards of the proposed amendment.

Setbacks. All residential lots shall have a front yard setback of not less than thirty feet. Corner residential lots shall have a setback from the side lot line on the adjacent frontage street of not less than thirty feet. All residential lots shall have a setback from the rear lot line of not less than twenty-five feet.

All residential lots shall have an aggregate setback from the side lot lines of not less than seventy feet and a minimum setback from a side lot line of twenty-five feet.

Suitability of location and timing of subdivisions and occupancy of subdivided lots and existing flora was addressed under amending Ordinance 2003-04.

Chairman Devine stated that all who have signed up to speak at this hearing will be allowed five minutes.

Irma Brockley stated she approved of these amendments. Paul Chernak stated he approved and the subdividers should wait until there was a Land Use Plan in place. <u>Max Jenachek</u> stated he approved.

Peter Croft stated he approves. The Town cannot survive off residential tax roll.

Bob Duskey was opposed. A ten to one acre was not realistic. Board is listening only to small property owners. Asked the Board not to rush into this and to appoint a steering committee. Randy Rhode stated he was opposed. May 20 the Town Board adopted a new Land Division Ordinance. He asked what was driving this rush to amend? Stated 25% of land in Pacific is owned by the DNR and This amendment will Alliant Energy, therefore not developable. devalue land when making lots ten acres.

Conrad Hauler approves of the amendments and just had a question on lot size.

Sue Martin was opposed. She didn't think the Town was considering the County zoning.

Tom Pinion was opposed. Thought the amendments were premature on 2003-04. Landscaping would be an undue burden on the developer. 2003-05 was excessive. Need appropriate dimensions. Odd shape lots. Dual standards for dimensions. Compared to the City of Portage some considerations are more drastic. Town needs to work with the City of Portage on land use before jumping in. Richard Preuss was opposed. Town is creating vacant lots. Not planning for the future. Not making land affordable for future generations.

<u>DuWayne Stork</u> was opposed to the amendments. He has farmed up to 500 acres in the Town since 1975. Not the best use of the land. <u>Jim Grothman</u> was opposed. Stated Adams Co has the 4:1 ratio, 330 ft X 1320. What about Saddle Ridge? Set backs - yes. Ten acres - no. Attorney Lehmann stated the October 6, 2003 letter from Randy Rhode be entered into the record of these minutes. His request was that his proposed subdivision be grandfathered. Letter from Randy Rhode October 6, 2003

RANDALL E. RHODE 219 EAST CONANT STREET PORTAGE, WISCONSIN 53901 Office (608)742-4353 Home (608)742-4905 Fax (608)742-4924

October 6, 2003

VIA FAX AND FIRST CLASS MAIL

Pacific Town Board c/o Ms. Ethel A. Smith Clerk, Town of Pacific N5483 Hwy 51 Pardeeville, WI 53954

The purpose of this correspondence is to set forth my position on proposed Ordinance Nos. 2003-04 and 2003-05. I ask that you include this correspondence as part of the record of the public hearing of October 7, 2003 regarding those proposed Ordinances.

As you are aware, my wife and I own an approximately 86-acre parcel of real estate located in Section 12 of the Town of Pacific. My proposal for rezoning and creation of a 64-lot subdivision was the subject of hearings in front of the Town of Pacific Plan Commission as well as the Town Board. Our subdivision conceptual plan, as well as our proposed rezoning, was approved by both entities. Ultimately, the property was rezoned as single-family residence district by Columbia County Board action of May 21, 2003.

Based upon the rezoning and the Plan Commission and Town Board approval of my plans, I did retain MSA Professional Services to prepare preliminary and final plats as well as all other engineering required to create the subdivision contemplated in, and which formed the basis for, the approval/rezoning. In retaining MSA I did rely upon the actions of the Town Board of Pacific as well as the Town of Pacific Plan Commission.

On June 23, 2003 this Board did vote in favor of a "veto" of the Columbia County rezoning of my property. I received notice of that action on June 30, 2003. As the direct and proximate result of this Board's "veto", MSA Services' work on the subdivision was suspended pending judicial determination of the propriety of this Board's action.

As this Board is aware, the Columbia County Circuit Court has now determined that my property was rezoned single-family residence by the County Board in May and that the Town of Pacific's alleged "veto" was of no affect. Accordingly, MSA Associates is moving forward with the engineering on our subdivision, as originally proposed to this Board and the Town of Pacific Plan Commission.

Had the Town of Pacific not delayed my project by virtue of its veto, which veto was not supported in the law, my subdivision plat would have been prepared and presented to the Plan Commission and Town Board approximately 60 days ago. That presentation would have occurred substantially prior to the formulation of proposed Ordinance Nos. 2003-04 and 2003-05.

I request that an exception be created to Ordinance Nos. 2003-04 and 2003-05 for my property. Alternatively, I request that Ordinance Nos. 2003-04 and 2003-05 apply only to property which is rezoned to single-family district subsequent to the date of passage, should that occur, of Ordinance Nos. 2003-04 and 2003-05.

Failing either of the foregoing, I do advise the Board that it is my opinion that the Board is estopped from enforcing more restrictive regulations (i.e. Ordinance Nos. 2003-04 and 2003-05) against my property. The Board cannot illegally veto my rezoning, cause a delay in my planning as a result of that veto and then claim that I am held to new stricter regulations which the Board passes while I am moving forward with my plat preparation.

I do also object to Ordinance Nos. 2003-04 and 2003-05 on the ground that they are not part of a comprehensive land use plan. No reasonable articuable basis has been announced for the creation of the same. Because of the lack of such a plan, Ordinance 2003-04 is unconstitutionally vague. No identifiable criteria are set forth which would allow an independent reader to determine whether additional lots were to be authorized. Further, the Ordinance, as proposed, allows the denial of a subdivision due to its failure to be located in, for example, a "short-term growth sector" where such a sector does not exist in the land-use plan of the Town of Pacific. I further object to Ordinance No. 2003-05 on the grounds that it is an attempt to create a de facto moratorium by virtue of economic non-viability. I further believe that it has been created primarily in an attempt to prevent my subdivision. As such, it is illegal.

In closing, I note that the progress which we have made in this project is "investment-backed". Both the Plan Commission and the Town Board have approved our conceptual plan/preliminary lot layout. We have expended very considerable amounts of time and money to reach this juncture. An application of Ordinance Nos. 2003-04 and/or 2003-05 to our property would be arbitrary, capricious and in derogation

of our property rights.

Thank you.

Sincerely

RANDALL E. RHODE

Chairman Devine closed the hearing at 7:08pm.

Ethel A. Smith, Clerk